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Attorneys for Defendant

WYNDHAM RESORT DEVELOPMENT CORPORATION²

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CLARKE and REBECCA WIXON and
NORMAN and BARBARA WIXON, and
KANDICE SCATTOLON on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

WYNDHAM RESORT DEVELOPMENT
CORP. (f/k/a Trendwest Resorts, Inc.), GENE
HENSLEY, DAVID HERRICK, JOHN
HENLEY, PEGGY FRY, and JOHN
McCONNELL, and nominally,
WORLD MARK, THE CLUB.

Defendants.

Case No.: C 07-02361 JSW

**AMENDED STIPULATION
REGARDING SUPPLEMENTAL AND
FURTHER PRODUCTION OF
DOCUMENTS AND
ELECTRONICALLY STORED
INFORMATION**

CLASS AND DERIVATIVE ACTION

¹ Admitted *pro hac vice*.

² Other Counsel of record listed on signature page.

1 Plaintiffs Clarke and Rebecca Wixon, and Norman and Barbara Wixon, and Kandice
2 Scattolon (hereafter collectively "Plaintiffs"), and Defendant Wyndham Resort Development
3 Corporation (hereafter "WRDC") hereby stipulate to the following amendment to the Stipulation
4 Regarding Supplemental Production and Further Production of Documents and Electronically
5 Stored Information between Plaintiffs and WRDC entered by the Court on January 8, 2010 (the
6 "ESI Stipulation") (Dkt. #444) and respectfully request that the Court amend its order
7 accordingly:
8

9 1. Paragraph A.2.b(1) of the ESI Stipulation provides that WRDC will produce to
10 Plaintiffs "the search term positive supplemental ESI obtained for all custodians (except Crane
11 and Darone) identified in subparagraph A.2.b, above, that does not contain a privilege term."
12

13 2. WRDC's e-discovery vendor, Cataphora, Inc. ("Cataphora"), recently informed
14 WRDC's counsel that a hard drive containing a supplemental Postini collection for the individual
15 custodians listed in Paragraph A.2.b of the ESI Stipulation other than Crane and Darone was
16 damaged and could not be processed for production to Plaintiffs by February 8, 2010.
17 (Declaration of Lewis Ripple dated February 5, 2010 ("Ripple Dec."), filed contemporaneously
18 herewith, ¶ 12.)
19

20 3. After being notified of the damaged Hard Drive, WRDC began delivering the
21 supplemental Postini collection for the individual custodians listed Paragraph A.2.b of the ESI
22 Stipulation (other than Crane and Darone) to Cataphora again. (*Id.* at ¶ 13.)

23 4. Cataphora has made all necessary arrangements to expedite the processing and
24 production of this information and intends to produce ESI related to 11 of the 24 custodians at
25 issue to Plaintiffs on WRDC's behalf by February 13, 2010. (*Id.* at ¶ 14.)
26

27 5. Cataphora intends to produce ESI related to the remaining 13 of the 24 custodians
28 at issue to Plaintiffs on WRDC's behalf by February 16, 2010. (*Id.* at ¶ 15.)

1 6. The above-described events, while unforeseen, prevent WRDC from meeting the
2 agreed-upon February 8, 2010 production deadline for individual custodians listed in Paragraph
3 A.2.b. of the ESI Stipulation (other than Crane and Darone). Due to these unforeseen events,
4 Plaintiffs and WRDC now stipulate to amend Paragraph A.2.b of the ESI Stipulation to provide
5 that WRDC's vendor, Cataphora, will produce to Plaintiffs on WRDC's behalf search term
6 positive ESI related to the supplemental Postini collection for the individual custodians listed in
7 Paragraph A.2.b of the ESI Stipulation (other than Crane and Darone) that does not contain a
8 privilege term, by the following amended deadlines:
9

10 (A) Production of ESI for 11 of the 24 individual custodians listed by
11 February 13, 2010; and

12 (B) Production of ESI for the remaining 13 of the 24 individual custodians
13 listed by February 16, 2010.
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1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.
2

3 Dated: February 8, 2010

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18 Dated: February 8, 2010

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: February 8, 2010



HON. BERNARD ZIMMERMAN
United States Magistrate Judge

CERTIFICATE OF SERVICE

Wixon v. Trendwest Resorts, Inc.,
USDC, Northern District of California

I hereby certify that, on February 8, 2010, I electronically filed the foregoing with the Clerk of Court using the ECF system, which will send notification of such filing to all parties, as follows:

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